HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.27380 of 2006

Dated:02.01.2007

Between:

M.A.Raheem.

…Petitioner

and

The Dy.Collector & Mandal Revenue Officer, and others.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.27380 of 2006

ORDER:

The petitioner herein is in occupation of premises No.19-2-226/G in Survey No.253/30 situated at Attapur Village, allegedly for the last fifteen years. He filed an application before the Mandal Revenue Officer, the first respondent herein, seeking regularization of his occupation in accordance with the guidelines and instructions issued by the Government in G.O.Ms.No.508, dated 20.10.1995. When the same was not considered, he filed W.P.No.22881 of 2003. This Court disposed of the Writ Petition on 30.10.2003 directing the first respondent therein to conduct an enquiry and pass necessary orders for regularization of the land admeasuring 120 square yards in Survey No.253/30. When the application was being considered, the third respondent herein filed objection petition before the first respondent, claiming that the petitioner's premises is situated in Survey No.252, which is owned by the third respondent. After considering the objections, the first respondent issued proceedings No.D/2216/2004, dated 26.10.2006, rejecting the petitioner's request for regularization. The petitioner was informed that as per the survey conducted by the Deputy Inspector of Survey, Chevella Division, premises bearing No.19-2-226/G falls in Survey No.252 (private land) and not in Survey

No.253/30 (Government land). Aggrieved by the same, the present Writ Petition is filed.

Learned Counsel for the petitioner submits that the first respondent passed orders ignoring the record available before him and that when the civil suit is pending between the parties, the first respondent ought not to have come to the conclusion that the petitioner's premises is situated in a private land. **Per contra**, the learned Assistant Government Pleader for Revenue (Assignment) relies on the averments in para 4 of the writ affidavit and submits that the third respondent filed O.S.No.6585 of 2002 on the file of the Court of the VIII Junior Civil Judge, City Civil Court, Hyderabad, seeking recovery of possession, which was decreed, and therefore, the impugned order is legal.

A perusal of the affidavit would show that the third respondent already obtained a decree from the civil Court for recovery of possession. Though appeal, being A.S.No.379 of 2006, on the file of the Court of the Second Additional Chief Judge, City Civil Court, is pending, the same does not, however, render the decision of the first respondent invalid. Indeed, as rightly pointed out by the learned Assistant Government Pleader, the first respondent relied on the report, dated 17.10.2006, of the Deputy Inspector of Survey, Chevella, in coming to the conclusion that Survey No.252 is a private land and not Government land. Needless to mention that the guidelines issued by the Government in G.O.Ms.No.508, dated 20.10.1995, would enable the first respondent or the competent authority to regularize the occupation of a person only in respect of Government land and not patta land.

The petitioner, therefore, has to seek remedy before appropriate Court. However, as the application has been rejected by the Mandal Revenue Officer, the petitioner is given liberty to make an application to the District Collector.

The Writ Petition, subject to the above observations, is accordingly dismissed. No costs.

_____

(V.V.S.RAO, J)

02.01.2007
vs